



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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November 18, 2013

Mr. Gary D. Goeke  
Chief, Environmental Assessment Section  
Leasing and Environment (MS 5410)  
Bureau of Ocean Energy Management (BOEM)  
1201 Elmwood Park Boulevard  
New Orleans, LA 70133-2394

**Subject: EPA NEPA Review Comments on BOEM's FEIS for "Gulf of Mexico Outer Continental Shelf (OCS) Oil and Gas Lease Sales: 2014-2016 Eastern Planning Area Lease Sales 225 and 226" CEQ #20130291**

Dear Mr. Goeke:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject Bureau of Ocean Energy Management (BOEM) Final Environmental Impact Statement (FEIS) in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. It is our understanding that BOEM proposes lease sales in the Gulf of Mexico (GOM) Outer Continental Shelf (OCS) for lease blocks in the Eastern Planning Area. The proposed action covers lease sales of blocks 225 and 226 in the Eastern Planning Area.

The EPA has participated in several recent NEPA reviews for BOEM actions, including reviews of the Draft Programmatic Environmental Impact Statement (PEIS) for the proposed 2012-2017 Outer Continental Shelf Oil and Gas Leasing Program and other EISs for lease sales in the CPA and WPA of the GOM OCS Region.

Responses to comments for this proposed action were originally due to the BOEM on November 4, 2013, but due to the government shutdown, the EPA requested an extension from the BOEM and it was granted. The EPA appreciates the BOEM's efforts to provide additional time for this review.

As outlined in our April 15, 2013 comment letter on the DEIS, our primary concerns associated with these proposed lease sales are related to potential impacts to air, coastal ecosystems, wetlands, mitigation, and impacts to environmental justice populations. We appreciate BOEM dedicating a section of the FEIS which provided specific responses to our comments on the DEIS. We have focused our review of the FEIS on the BOEM's specific responses to our DEIS comments. The EPA has the following comments:

## Air

The EPA's previous air comments on the DEIS focused generally on Class I area impacts, mitigation, general conformity, consideration of impacts of hazardous air pollutants (HAP), particulate matter, and carbon monoxide, and on the air quality offshore modeling analysis performed by BOEM. The EPA appreciates BOEM's inclusion of additional air quality information in the FEIS and specific responses to our comments. For the purposes of our air quality comments on the FEIS, our responses below are limited to BOEM's responses to our comments. We look forward to a more detailed discussion related to the air quality impacts analysis, including Appendix G, at our upcoming meeting next month.

### USEPA -1 -Hazardous Air Pollutants

The EPA appreciates BOEM's additional summary information provide regarding HAPs; BOEM included additional information regarding benzene emissions. BOEM's response states that "There is limited data currently available on the cumulative size of hazardous air pollutants likely to be emitted from OCS oil and gas activities," and concludes that "hazardous air pollutants emissions are not likely to be significant or to significantly affect onshore air quality." The EPA recommends that the brief discussion on lack of data does not adequately support the conclusion that there are likely no significant impacts. The EPA also recommends that BOEM consider HAP from diesel particulates as part of future analysis, as numerous diesel engines are associated with offshore oil and gas activities.

### USEPA-1&2 - Air Quality Impacts

The BOEM responses to comments 1 and 2 indicate the OCSLA mandates that the Secretary of the Interior promulgate and administer regulations that comply with the NAAQS and to the extent that authorized activities significantly affect the air quality of any State. EPA agrees that this is BOEM's mandate under the OCSLA. However, consistent with NEPA guidelines, EPA suggests that the NEPA review not be limited to the scope of the OCSLA, i.e. impacts to onshore receptors. An EIS serves as a document to provide an assessment of air quality impacts in general and to allow decision makers an insight into compliance with all applicable statutes and regulations, including the requirements of the Clean Air Act (CAA) that are broader than the mandate of the OCSLA.

### USEPA-2 - Air Quality Impacts

The EPA continues to have concerns that the 2008 Gulf-wide Emissions inventory may not capture the extent of the higher emissions associated with increased deepwater exploratory drilling, and that some aspects of the analysis are not as conservative as BOEM has assumed. For example, carbon dioxide equivalent (CO<sub>2e</sub>) emissions from deepwater exploratory rigs are significantly higher (i.e. 30,000 – 100,000 tpy) than the 200-400 tpy range per well range for platforms discussed and assessed in the FEIS. In addition, NO<sub>x</sub> is the only pollutant for which the background concentration was considered in the FEIS analysis; hence, for the other pollutants, only comparisons to the significant impact level (SIL) (rather than the NAAQS) are appropriate. The EPA supports BOEM's commitment to conduct a variety of sensitivity analyses, updated emission inventories, and an evaluation of emission scenarios using USEPA-approved models, which will support BOEM's scientific analyses and overall assessment of air quality impacts in future EIS's.

### Air Impacts Mitigation (USEPA-6)

Based on our review of the Mitigation Measures section, Chapter 2.2 of the FEIS, it does not appear that specific examples of air impacts mitigation have been included to this section. In response, BOEM indicated that it is premature to discuss emerging technologies that could be used in the future, and that air quality mitigation is best addressed during post-lease reviews. The EPA recommends, consistent with NEPA regulations and guidance (see 40 CFR 1508.20; Forty Questions No.19(a)), that at a minimum, BOEM identify known technologies that may be generally applied to the offshore oil and gas operations BOEM is discussing in the EIS document. Mitigation directly affects the projected emissions that are discussed in the FEIS, and post-lease activities often do not include a public comment period. The EPA recommends that future NEPA documents provide additional details on the standard mitigation measures related to air quality referenced in this section and specific air impact mitigation measures, such as the use of low sulfur fuels, inherently lower polluting engine designs, use of tier certified non-road and marine engines, electrification of cranes and support equipment, fuel efficiency measures, and add on controls.

### Wetlands and Coastal Ecosystems

A report by Stedman and Dahl (2008) on the status and trends of wetlands in coastal watersheds states that the “Gulf of Mexico coastal watersheds exhibited substantial losses in freshwater wetlands. This rate of loss was 6 times higher than the rate of freshwater vegetated wetlands losses in the Atlantic coastal watersheds. The estimated losses for all wetland types in the Gulf of Mexico were 25 times higher than those estimates for the Atlantic over the course of this study.”<sup>1</sup> This report also indicates that coastal areas along the panhandle of Florida, Alabama, Mississippi, Louisiana, and Texas are listed as areas of greatest coastal wetland loss in the Gulf of Mexico and that a “majority of the coastal wetland loss (61,800 acres per year) from 1998 to 2004 occurred in the Gulf of Mexico.” The EPA recommends this reference be included in future BOEM NEPA documents regarding status and trends of coastal wetland systems in the Gulf of Mexico.

The EPA appreciates the BOEM revising the wetlands and coastal areas discussion to better quantify historical impacts to wetland and coastal systems for Florida. The EPA remains concerned about the potential for cumulative impacts on near shore wetlands and coastal areas. As stated in our DEIS comments, coastal wetland systems are very sensitive systems that are increasingly stressed from all types of activities including but not limited to coastal development, maintenance dredging of channels, and oil and gas development. These systems are also stressed due to natural events such as hurricanes. Stresses on these systems are only predicted to increase with climate change and sea level rise.

### Environmental Justice

As previously stated in our comments on the DEIS, the federal action proposed under this FEIS has the potential to impact EJ communities negatively and positively. The potential negative impacts on EJ communities involve oil spills that negatively impact communities that rely on

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<sup>1</sup> Stedman, S. and T.E. Dahl. 2008. Status and trends of wetlands in the coastal watersheds of the Eastern United States 1998 to 2004. National Oceanic and Atmospheric Administration, National Marine Fisheries Service and U.S. Department of the Interior, Fish and Wildlife Service. (32 pages)

commercial and recreational fishing, oystering, and subsistence fishing. Other negative impacts are associated with the oil-related infrastructure and its impact on minority and low-income communities. The infrastructure support system for oil- and gas-related industries in the GOM is highly developed, widespread, and has operated for decades within a heterogeneous GOM population. The potential positive impacts associated with the proposed action include increases in economic activity and job creation in these same communities.

The EPA is pleased that the National Institutes of Health has proposed a study, “the Gulf Long-Term Follow-Up (GuLF) Study, which should provide a better understanding of the long-term and cumulative health impacts, such as the consequences of working close to a spill and of consuming contaminated seafood.”<sup>2</sup> We understand that the GuLF Study will monitor oil-spill cleanup workers for 10 years. We are also encouraged by BOEM’s proposed studies that seek “to understand the short- and long-term impacts of the recent *Deepwater Horizon* explosion, oil spill, and response (e.g., BOEM’s study ‘Ethnic Groups and Enclaves Affected by OCS,’ which was launched on August 1, 2010).”<sup>3</sup> Although these studies are ongoing and results are not expected in the near-future, the EPA believes these studies will better inform BOEM and the public regarding the human health and potential EJ impacts of future OCS oil & gas leasing and permitting decisions.

### **Mitigation**

The EPA provided comments on the DEIS regarding mitigation for impacts on coastal resources, and we requested that commitments be made to fully mitigate and/or compensate for all unavoidable losses of coastal resources, as well as for the physical, chemical, and biological functions and ecological services they provide. We also provided comments regarding mitigation of potential impacts to Air quality. In response to our comments, BOEM indicated that if the agency proceeded with the lease sale then the terms of the lease sale will be announced in the Record of Decision and the Final Notice of Sale.

On January 14, 2011, the White House Council on Environmental Quality (“CEQ”) issued final guidance on the use of mitigation under the National Environmental Policy Act (“NEPA”). *Final Guidance for Federal Departments and Agencies on the Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact* (“Guidance Memorandum”), the guidance became effective through publication in the Federal Register on January 21, 2010 (76 *Fed. Reg.* 3843). One key component of this guidance directs lead agencies to provide for public disclosure of the mitigation commitments and implementation process. The EPA understands that the BOEM provides mitigation stipulations in the Record of Decision and Final Notice of Sale; however we believe that earlier disclosure (if possible) of these mitigation efforts in the NEPA process would be appropriate (ie. DEIS and FEIS).

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<sup>2</sup> Paraphrased from p. 4-269 of FEIS

<sup>3</sup> p. 4-269 of FEIS

### **Consultation and Coordination**

In our comments on the DEIS, the EPA recommended that the FEIS include specific responses to comments received on the DEIS and that the responses be included in a specific section of the FEIS. The EPA appreciates the BOEM providing specific responses to our comments in a dedicated section of the FEIS. The BOEM's responses are very well organized and readable for the public and stakeholders. We appreciate the BOEM's level of responsiveness to the EPA and stakeholder comments in the FEIS.

### **Editorial Notes**

- We note that the response to comments for the Mississippi Energy Institute provide on p. 5-29 appear to be unrelated to the actual comment.
- We are unclear if comments provided on p. 5-41 are comments provided by the Florida Department of State – Division of Historical Resources.
- We note that, while H<sub>2</sub>S is regulated under the accidental release provisions of 112(r) of the Clean Air Act, it is not a listed Hazardous Air Pollutant.
- We note that, when referring to the OCS Air Regulations, the applicable distances are in nautical miles not statute miles (e.g., 25 nautical miles (46 km) from the states seaward boundary), consistent with statutory descriptions of the state seaward boundary.
- We note that the EPA impact assessment is to determine if the project's impacts will cause or contribute to violations of any ambient air quality standards, rather than "to determine if the air quality will worsen."
- We note that emissions from offshore activities that do not exceed the SIL, rather than "exceed the PSD increments," can be considered minimal impacts.
- We note that the PSD Class I and Class II areas are also designated for NO<sub>x</sub>, in addition to SO<sub>2</sub> and PM, as discussed in the description in Appendix G.
- We note that the reference to 40 CFR Chapter 1, Part 51, Appendix W 7.2.4 is "*EPA's Guideline on Air Quality Models*," rather than "*Modeling Guidance for Other Governmental Programs*." Appendix A of this document provides "Summaries of Preferred Air Quality Models," in which OCD is described as an offshore and coastal dispersion model.

The EPA appreciates the opportunity to review this FEIS. We request that the BOEM provide specific responses in the Record of Decision (ROD) to our outstanding concerns listed above. We also request that the BOEM provide EPA with a copy of the final signed ROD. Should the BOEM have questions regarding our comments, please feel free to contact Dan Holliman of my staff at 404/562-9531 or [holliman.daniel@epa.gov](mailto:holliman.daniel@epa.gov).

Sincerely,



Heinz J. Mueller  
Chief, NEPA Program Office  
Office of Environmental Accountability